

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMAR ANTONIO BEAVER,

Petitioner,

v.

BRUNO STOLC,

Respondent.

Case No. C08-430-JCC

ORDER

This matter comes before the Court on Petitioner's Motion for a Certificate of Appealability. (Dkt. No. 58.) Having thoroughly considered Petitioner's motion and the relevant record, the Court hereby DENIES Petitioner's motion for reasons explained herein.

Petitioner received a dismissal of his application for a writ of habeas corpus (Dkt. No. 56) on June 6, 2010. Later that day, Petitioner timely filed a Motion for a Certificate of Appealability. (Dkt. No. 58.)

If Petitioner is to appeal denial of a writ of habeas corpus, this Court must first issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). "A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This standard requires Petitioner to show that reasonable jurists would find the district court's assessment of the constitutional claims to be

1 debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). A decision on a  
2 constitutional claim meets this standard when it is debatable among jurists of reason, a court  
3 could resolve the issue in a different manner, or the questions are adequate to deserve  
4 encouragement to proceed further. *Lambright v. Stewart*, 220 F.3d 1022, 1024–25 (9th Cir.  
5 2000).

6 Petitioner contends, again, that the prohibition against double jeopardy and his due  
7 process rights have been violated. (Mot. 1–2 (Dkt. No. 58).) Petitioner claims that the firearm-  
8 enhanced portions of his sentence contravene constitutional law because “[he] has been  
9 punished 3 separate times (for a total of 11 years in prison) even though only two firearms  
10 were involved in the incident.” (Mot. 2 (Dkt. No. 58).) Petitioner’s argument is identical to the  
11 one he made on his denied habeas petition, as well as the argument that was rejected on appeal  
12 to the state courts. Petitioner is re-alleging that it is a violation of due process and the  
13 prohibition against double jeopardy for the number of firearm enhancements to exceed the  
14 number of firearms used in a crime.

15 This Court previously found that Petitioner had failed to show that enhancing three of  
16 his crimes with fewer than three firearms amounted to a constitutional violation. (*See Order*  
17 *(Dkt. No. 56)*.) Petitioner’s regurgitated argument also fails. Petitioner has not made a  
18 substantial showing of the denial of a constitutional right, nor has he cited authorities that  
19 indicate that this Court’s assessment of this case was debatable or wrong. This Court has  
20 already explained why Petitioner’s cited precedent is not relevant to his situation. (*See Order*  
21 *3–4 (Dkt. No. 56)*.) Petitioner’s argument is baseless and unsupported, especially in light of the  
22 Washington legislature’s clear indication that: (1) firearm enhancements are to be imposed  
23 even when the possession or use of a firearm is an element of the underlying offense, and (2)  
24 multiple enhancements are to be imposed for a single act of using or possessing when possible.  
25 (*See Dkt. No. 35 Ex. 3 at 12–13*.) No reasonable jurist could rely on irrelevant precedent and  
26 ignore legislative intent so as to create a debatable matter here.

Petitioner's Motion for a Certificate of Appealability (Dkt. No. 58) must be DENIED.

DATED this 6th day of July, 2010.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE